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May 15, 2008

**VIA FACSIMILE TO 212-805-6382**The Honorable Victor Marrero  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007-1368**USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5-15-08****RE: Plummer v. AvanteUSA  
08 CV 1465 (VM)**

Dear Judge Marrero:

I represent the plaintiff in the above referenced matter and am writing to Your Honor in response to the Court's order of even date. I sent out a waiver of service on or about February 27, 2008 and have not received a response from the defendant. Therefore, actually yesterday I faxed the summons and complaint to a process server from Houston. I requested that the complaint be served by regular service as the 120 day period expires in June. I have sent an email to the process server to make sure that the complaint has been received and is being processed and will file the affidavit of service when I receive same.

Thank you for the Court's consideration of the foregoing.

Yours faithfully,

Adam J. Fishbein

Cc: AvanteUSA (via facsimile to 713-785-4467)

The Court acknowledges plaintiff's response to the Court's Order dated 5-15-08 requesting a report on the status of this action. In the event plaintiff has not effected service within the time permitted under Rule 4(m) of the Federal Rules of Civil Procedure, the Court will enter a default judgment against the plaintiff.

**SO ORDERED:** Civil Procedure The Court will enter a default judgment against the plaintiff.

5-15-08

DATE VICTOR MARRERO, U.S.D.J.